

SECOND REGULAR SESSION

HOUSE BILL NO. 1845

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COPENHAVER, GEORGE, FRANKLIN, HICKEY, O'CONNOR,
FOLEY AND BRAY (Co-sponsors).

Read 1st time February 7, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4432L.011

AN ACT

To repeal sections 168.114, 168.116, 168.118, and 168.120, RSMo, to enact in lieu thereof four new sections relating to teachers of the public schools.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 168.114, 168.116, 168.118, and 168.120, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 168.114, 168.116, 168.118 and
3 168.120, to read as follows:

168.114. 1. An indefinite contract with a permanent teacher shall not be terminated [by
2 the board of education of a school district] except for one or more of the following causes:

3 (1) Physical or mental condition [unfitting him] **making such teacher unfit** to instruct
4 or associate with children;

5 (2) Immoral conduct;

6 (3) Incompetency, inefficiency or insubordination in line of duty;

7 (4) Willful or persistent violation of, or failure to obey, the school laws of the state or
8 the published regulations of the board of education of the school district employing [him] **such**
9 **teacher;**

10 (5) Excessive or unreasonable absence from performance of duties; or

11 (6) Conviction of a felony or a crime involving moral turpitude.

12 2. In determining the professional competency of or efficiency of a permanent teacher,
13 consideration should be given to regular and special evaluation reports prepared in accordance
14 with the policy of the employing school district and to any written standards of performance
15 which may have been adopted by the school board.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

168.116. 1. The indefinite contract of a permanent teacher may not be terminated [by the board of education] until after service upon the teacher of written charges specifying with particularity the grounds alleged to exist for termination of such contract, notice of a hearing on charges and a hearing [by the board of education] on charges if requested by the teacher.

2. At least [thirty] **one hundred twenty** days before service of notice of charges of incompetency, inefficiency, or insubordination in line of duty, the teacher shall be given by the school board or the superintendent of schools warning in writing, stating specifically the causes which, if not removed, may result in charges. Thereafter, both the superintendent, or [his] **the superintendent's** designated representative, and the teacher shall meet and confer in an effort to resolve the matter.

3. Notice of **right to request** a hearing upon charges, together with a copy of charges, shall be served on the permanent teacher [at least twenty days prior to the date of the hearing]. The notice and copy of the charges may be served upon the teacher by certified mail with personal delivery addressed to [him] **the teacher** at [his] **the teacher's** last known address. If the teacher or [his] **the teacher's** agent does not within ten days after receipt of the notice request a hearing on the charges, the board of education may, by a majority vote, order the contract of the teacher terminated. If a hearing is requested by [either] the teacher [or the board of education, it shall take place not less than twenty nor more than thirty days after notice of a hearing has been furnished the permanent teacher.], **the superintendent shall forward a copy of the notice to the state board of education. Within five days after receiving this notice of hearing, the state board of education shall provide a list of five prospective, impartial hearing officers. Each person on the list shall be accredited by a national arbitration organization. No one on the list shall be a resident of the school district. Within seven days of receipt of the list, the board and the teacher or their legal representatives shall alternately strike one name from the list until only one name remains. The board shall proceed first with the striking. The state board of education shall promulgate uniform standards and rules of procedure for such hearings. Such rules and regulations shall, at a minimum, provide for:**

(1) **Discovery of names and addresses of persons who may be called as expert witnesses at the hearing. The omission of any such name shall result in a preclusion of the testimony of such witness in the absence of the showing of good cause and the express permission of the hearing officer;**

(2) **Written interrogatories; and**

(3) **The production of relevant documents.**

4. **The school district shall pay the per diem allowance for the hearing officer, not to exceed four hundred dollars, and the expenses of the hearing officer.**

37 [4.] **5.** On the filing of charges in accordance with this section, the board of education
38 may suspend the teacher from active performance of duty until a decision is rendered by the
39 [board of education] **hearing officer** but the teacher's salary **and benefits** shall be continued
40 during such suspension. If a decision to terminate a teacher's employment [by the board of
41 education] is appealed, and the decision is reversed, the teacher shall be paid [his] **the teacher's**
42 salary lost during the pending of the appeal.

43 **6. No rule or portion of a rule promulgated under the authority of this section shall**
44 **become effective until it has been promulgated pursuant to the provisions of chapter 536,**
45 **RSMo.**

168.118. If a hearing is requested on the termination of an indefinite contract it shall be
2 conducted by the [board of education] **hearing officer** in accordance with the following
3 provisions:

4 (1) The hearing shall be public **unless closed at the request of the teacher, and shall**
5 **be scheduled not less than thirty nor more than forty-five days from the date of selection**
6 **of the hearing officer, unless the period is shortened or extended by mutual agreement of**
7 **the teacher and the board of education;**

8 (2) Both the teacher and the person filing charges may be represented by counsel who
9 may cross-examine witnesses;

10 (3) Testimony at hearings shall be on oath or affirmation administered by the [president
11 of the board of education] **hearing examiner**, who for the purpose of hearings held [under
12 sections 168.102 to 168.130] **pursuant to this section** shall have the authority to administer
13 oaths;

14 (4) The [school board] **hearing officer** shall have the power to subpoena witnesses and
15 documentary evidence as provided in section 536.077, RSMo, and shall do so on [its own] **the**
16 motion or at the request of the **administration or the** teacher against whom charges have been
17 made. The [school board] **hearing officer** shall hear testimony of all witnesses named by the
18 **administration and the** teacher; however, the [school board] **hearing officer** may limit the
19 number of witnesses to be subpoenaed on behalf of the **administration or the** teacher to not
20 more than ten;

21 (5) The board of education shall employ a stenographer who shall make a full record of
22 the proceedings of the hearings and who shall, within ten days after the conclusion thereof,
23 furnish the **hearing officer, the** board of education and the teacher, at no cost to the **hearing**
24 **officer or the** teacher, with a copy of the transcript of the record, which shall be certified by the
25 stenographer to be complete and correct. The transcript shall not be open to public inspection,
26 unless the hearing on the termination of the contract was an open hearing or if an appeal from
27 the decision of the [board] **hearing officer** is taken by the teacher **or the board of education;**

28 (6) All costs of the hearing shall be paid by the school board except the cost of counsel
29 for the teacher;

30 (7) [The decision of the board of education resulting in the demotion of a permanent
31 teacher or the termination of an indefinite contract shall be by a majority vote of the members
32 of the board of education and the decision shall be made within seven days after the transcript
33 is furnished them. A written copy of the decision shall be furnished the teacher within three days
34 thereafter.] **No later than thirty days after the conclusion of the hearing, the hearing officer**
35 **shall make a decision as to whether or not the teacher shall be dismissed and shall deliver**
36 **copies of the decision to both the teacher and the board of education. The hearing officer**
37 **shall also have the authority to decide that a teacher shall be given appropriate discipline,**
38 **but not be dismissed. In the case of a charge of incompetency, inefficiency, or**
39 **insubordination in the line of duty, the hearing officer shall also have the option of**
40 **ordering an extension of the period in which the superintendent and the teacher shall meet**
41 **and confer in an effort to resolve the matter as provided in subsection 2 of section 168.116.**
42 **The decision of the hearing officer is final unless appealed as provided in section 168.120.**

168.120. 1. The teacher **or the board of education** shall have the right to appeal from
2 the decision of the [board of education] **hearing officer** to the circuit court of the county where
3 the employing school district is located. The appeal shall be taken within fifteen days after
4 service of a copy of the decision of the [board of education upon the teacher] **hearing officer**,
5 and if an appeal is not taken within the time, then the decision of the [board of education]
6 **hearing officer** shall become final.

7 2. The appeal may be taken by filing notice of appeal with the board of education,
8 whereupon the board of education, under its certificate, shall forward to the court all documents
9 and papers on file in the matter, together with a transcript of the evidence, the findings and the
10 decision of the [board of education] **hearing officer**, which shall thereupon become the record
11 of the cause. Such appeal shall be heard as provided in chapter 536, RSMo.

12 3. Appeals from the circuit court shall be allowed in the same manner as in civil actions,
13 except that the original transcript prepared and filed in the circuit court by the board of
14 education, together with a transcript of the proceedings had in the circuit court, shall constitute
15 the transcript on appeal in the appellate court. The board of education shall make available[,]
16 to the parties, copies of any transcript prepared and filed by it in the circuit court and upon final
17 determination of the cause in the appellate court the original record of the board of education
18 filed as a part of the transcript on appeal shall be certified back to the board of education by the
19 appellate court. In all appeals from the board of education or circuit court the costs thereof shall
20 be assessed against the losing party as provided by law in civil cases. All appeals to the circuit
21 court and appellate courts shall have precedence over all cases except election contests.

22 4. If the circuit court finds for the teacher, [he] **the teacher** shall be restored to
23 permanent teacher status and shall receive compensation for the period during which [he] **the**
24 **teacher** may have been suspended from work, and such other relief as may be granted by the
25 court.